

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

LINDA CHRISTINE ELLIOTT,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 12-00682-WS-N
)	
CAROLYN W. COLVIN,)	
Commissioner of Social Security,)	
)	
Defendant.)	

ORDER

This action is before the Court on plaintiff's application (doc. 22) for attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. This action has been referred to the undersigned Magistrate Judge to conduct all proceedings in accordance with 28 U.S.C. § 636(c) and Fed. R.Civ.P. 73 (doc. 18) and pursuant to the consent of the parties (doc. 17).

Plaintiff commenced this action under 42 U.S.C. §405(g) seeking judicial review of a final decision of the Commissioner denying his application for Social Security Disability Benefits. (Doc. 1). The Commissioner thereafter filed an Answer (doc. 10) and the administrative hearing transcript (doc. 11). Upon consideration of the parties' respective briefs (docs. 12, 15) and their arguments at the hearing conducted on July 12, 2013 (doc. 19), the Commissioner's decision denying plaintiff benefits was reversed and the case remanded for further consideration of Plaintiff's claim. The Commissioner's unopposed motion to remand was granted on July 13, 2012 (doc. 20). Judgment reversing

and remanding the case was entered accordingly (doc. 21). Plaintiff is thus the prevailing party.

Plaintiff timely filed a motion for attorney's fees under the EAJA in the amount of \$2,133.59 (which represents 11.5 hours paid at a rate of \$185.53 per hour) (doc. 22). The Commissioner has now advised the Court that he "will not oppose Plaintiff's Motion." (Doc. 24 at 1). The Commissioner does, however, request that "the Court order that payment to be made to the Plaintiff, rather than to Plaintiff's attorney." (*Id.*, citing Astrue v. Ratliff, 130 S.Ct. 2521, 2524 (2010); *see also id.* at 2529-30 (Sotomayor, J., concurring) ("I agree that the text of the Equal Access to Justice Act (EAJA) and our precedents compel the conclusion that an attorney's fee award under 28 U.S.C. § 2412(d) is payable to the prevailing litigant rather than the attorney.")).

Upon consideration of all pertinent materials presented, including the Commissioner's response and lack of opposition to the payment of the amount sought by the plaintiff (doc. 24), the undersigned concludes that the plaintiff is entitled to receive as a reasonable attorney fee for 11.5 hours of legal services rendered by plaintiff's attorney in this court the amount of \$2,133.59 pursuant to the EAJA. It is, therefore, **ORDERED** that plaintiff's motion (doc. 22) be and is hereby **GRANTED** and Plaintiff is awarded \$2,133.59 for attorney's fees under the EAJA.

Done this 8th day of January, 2014.

/s/ Katherine P. Nelson
KATHERINE P. NELSON
UNITED STATES MAGISTRATE JUDGE